

1 JOHN W. COTTON (SBN 54912)  
Email: JCotton@gghslaw.com  
2 GARTENBERG, GELFAND & HAYTON LLP  
15260 Ventura Blvd., Suite 1920  
3 Sherman Oaks, CA 91403  
4 (213) 542-2100  
(818) 292-0898  
5 Counsel to Receiver Sherwood  
Partners, Inc.  
6

7  
8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 SECURITIES AND EXCHANGE  
COMMISSION,

11 Plaintiff,

12 v.

13 JOHN B. BIVONA; SADDLE RIVER  
14 ADVISERS, LLC; SRA MANAGEMENT  
ASSOCIATES, LLC; FRANK GREGORY  
15 MAZZOLA

16 Defendants.  
17  
18

Case No. 3:16-cv-1386

**RECEIVER'S  
ADMINISTRATIVE  
APPLICATION FOR AN  
ORDER PURSUANT TO  
LOCAL RULE 7-11 FOR THE  
APPROVAL OF FEES FOR  
THE PERIOD JULY 1 TO  
SEPTEMBER 30, 2017, FOR  
THE RECEIVER AND  
COUNSEL**

Date: N/A

Time: N/A

Judge: Edward M. Chen

19  
20  
21 **I. Background**

22 On October 11, 2016, this Honorable Court issued an Order of  
23 Appointment of Receiver ("the Order") and thereby appointed Sherwood  
24 Partners Inc. ("Sherwood") as Receiver in this matter. The Order also  
25 appointed John W. Cotton ("Cotton") of Gartenberg, Gelfand & Hayton  
26 LLP as Counsel to the Receiver. Previously the Receiver and his counsel  
27 submitted interim applications for fees and expenses for the time



1 periods October 11, 2016 to March 31, 2017 (First Quarterly Fee  
2 Application filed on July 13, 2017 and approved on July 25, 2017); and  
3 April 1, 2017 to June 30, 2017 (Second Quarterly Fee Application filed  
4 on October 19, 2017 and approved, but with a 20% holdback for  
5 Sherwood, on November 16, 2017). The total fees and expenses of the  
6 Receiver approved by the Court and paid to date are \$291,630.14 and  
7 the total fees and expenses of the Receiver's counsel approved by the  
8 Court and paid to date are \$66,446. (The Court ordered a 20% holdback  
9 of all the Receiver's fees to date in the amount of \$72,907.53) The total  
10 fees and expenses of the Receiver being requested in this Third  
11 Quarterly Application (the "Application") are \$118,220 and the total  
12 fees and expenses of the Receiver's counsel requested in this Third  
13 Application, are \$30,455.

14 In this Application, Sherwood through its Senior Vice President  
15 Peter Hartheimer ("Hartheimer"), requests that this Court approve its  
16 Third Quarterly fees and expenses as well as that of its Counsel, for the  
17 time period July 1, 2017 to and including September 30, 2017. The  
18 Application consists of the accompanying Declaration of Peter  
19 Hartheimer, the time records of Sherwood (Exhibit A to the Declaration  
20 of Hartheimer) , a narrative of the work performed by Sherwood  
21 (Exhibit B to the Declaration of Hartheimer) and the SEC's Standard  
22 Fund Accounting Record ("SFAR", Exhibit C to the Declaration of  
23 Hartheimer). The Receiver also requests approval for the fees of his  
24 counsel, John W. Cotton for the current time period. The Declaration of  
25 John W. Cotton with accompanying billing statements from his firm  
26  
27  
28



1 (Exhibit A to the Declaration of Cotton) also accompanies this  
 2 Application.<sup>1</sup>

## 3 4 **II. The Fee Application of Sherwood**

5 As the Declaration of Peter Hartheimer of Sherwood sets  
 6 forth, the interim period for which it makes this Application is July 1,  
 7 2017 to September 30, 2017. During this time period, the personnel  
 8 who worked on this matter, and their discounted hourly rates include  
 9 Mr. Michael Maidy (\$595); Peter Hartheimer (\$510), Georgiana Nertea  
 10 (\$295); Nicolas Hernandez (\$ 295) and Alexander Brandtneris (\$195).  
 11 Sherwood's total charge for time and disbursements in this interim  
 12 Application is \$118,220. This represents a total of 325.2 hours, or 108  
 13 hours per month. Hartheimer Decl., at ¶ 3. Sherwood has applied a 15%  
 14 reduction to its standard rate and has only used personnel appropriate  
 15 to the level of work being undertaken. Hartheimer Decl., at ¶ 3.  
 16 Hartheimer has personally reviewed all the time spent by Sherwood  
 17 personnel on receivership tasks and has attested to the accuracy and  
 18 appropriateness of the time billed and has set forth the major work  
 19 categories in which time was spent. Hartheimer Decl., at ¶¶ 3 and 4.  
 20 Finally, Hartheimer has prepared the required SEC Standard Fund  
 21 Accounting Report, or "SFAR", for the period covered by this  
 22 Application. Hartheimer Decl., at ¶ 5.

## 23 **III. The Fee Application of Sherwood's Counsel**

24  
 25  
 26 <sup>1</sup> Exhibit A to the Declaration of Hartheimer may contain unilateral fact  
 27 characterizations by Sherwood to which defendants reserve their right  
 28 to object.



As the Declaration of John Cotton of Gartenberg Gelfand & Hayton (“GG&H”) sets forth, the period for which it makes its third interim fee application is July 1, 2017 to September 30, 2017. All time spent on Receivership legal matters were undertaken by Cotton alone, at a reduced billing rate of \$450 an hour. GG & H’s total charge for time and disbursements in this Application is \$ 30,455. This represents a total of 64.4 hours, or 22 hours per month. Cotton Decl., at ¶ 3. GG & H has applied a 15% reduction to its standard rate and has only used personnel appropriate to the level of work being undertaken. Cotton Decl., at ¶ 3. Cotton has personally reviewed all the time spent on receivership tasks and has attested to the accuracy and appropriateness of the time billed and has set forth the major work categories in which time was spent. Cotton Decl., at ¶ ¶4 to 6.

During the time period of this interim Application, the work performed by Cotton consisted of the following work categories: responding to and advising the Receiver (19 hours); responding to and meeting with the SEC concerning SRA IG investor group concerns and the Joint Plan of Distribution (6.1 hours); review, preparation of and filing court documents (37.4 hours); and responding to and attending investor and Defendants’ counsel calls and related questions (5.2 hours). Cotton Declaration at ¶ 4.

#### **IV. All Parties Have No Objection to this Fee Application**

All the parties to this matter have indicated to Sherwood’s counsel that they do not oppose the Application. The fees and expenses being requested herein for Sherwood and its counsel were submitted to the SEC prior to this submission, and the SEC provided several recommended reductions, which were accepted by Sherwood and



1 resulted in a reduced fee request. All parties received copies of the  
2 modified Sherwood bills showing the SEC's recommended reductions  
3 during a meet and confer exchange, and therefore do not oppose the  
4 Application as presented.

5  
6 **V. Conclusion**

7 For the forgoing reasons, the Receiver and his counsel request  
8 that the Court approve the Application for Third Quarterly Fees by  
9 signing the attached Proposed Order.

10  
11 Dated: December 21, 2017

GARTENBERG GELFAND HAYTON  
LLP

12  
13 By: /s/ John W. Cotton  
14 John W. Cotton  
15 Counsel to the Receiver  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28